



Paper No. 7

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OCT 24 2002

OFFICE OF PETITIONS

In re Application of :
Gilbert & Stergiopoulos :
Application No.: 09/982,709 :
Filed: October 18, 2001 :
Attorney Docket No.: CF/041 :
For: SYSTEMS AND METHODS FOR QUOTING :
A TWO-SIDED MARKET :

**DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)**

This is a decision on the petition under 37 CFR 1.47(a), filed June 24, 2002 (express mail date June 21, 2002).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 18, 2001 without an executed oath or declaration. Accordingly, on November 21, 2001, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on June 24, 2002 (express mail date June 21, 2002), a petition for a five month extension of time and required fee, a declaration executed by 1 of 2 legal representatives of joint inventors, the surcharge, the petition fee, and the instant petition were filed. The petition states that a declaration and power of attorney was mailed to the widow of joint inventor Andrew Gilbert, but that she did not return it signed.

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the legal representative of the deceased inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the legal representative of the deceased inventor.

This petition lacks item (1) above.

As to item (1), Applicant has failed to establish that the legal representative of the deceased inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the legal

representative of the deceased inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d).

Mrs. Gilbert must have the complete application in her possession in order to make an informed decision as to whether she joins in its filing. She cannot make the necessary statements -- "I have reviewed and understand.." etc.-- without looking at the application papers.

Once delivery of the complete application to Mrs. Gilbert's last known address is established and no response has been received within a reasonable amount of time, applicant will have shown constructive refusal by Mrs. Gilbert to join in the filing of the application.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.


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for Patent Examination Policy